

REMARKS

Independent claim 12 was rejected under 35 U.S.C. §102(e) as being anticipated by Kenner (U.S. Patent No. 6,956,716). This rejection is traversed; the examiner has not established *prima facie* anticipation.

Claim 12 recites a counter to track a transmission from the time a handle to a first marker is obtained, the handle to enable the first marker for tracking. In one embodiment, a count server cumulates transmission details once a handle has been provided to a marker. Specification, page 6, line 26-page 7, line 5.

In the rejection, the examiner cites to an SRU Access Count Rate as teaching the claimed counter. Paper No. 01092006, page 3. Kenner's SRU Access Count Rate merely monitors how often a particular SRU is used for video delivery during a predetermined time interval. For example, if a video clip is received by a requesting DSI from a particular SRU within the predetermined time, the counter for the particular SRU is incremented. Column 13, lines 65-67; column 16, line 57-column 17, line 2. Thus, Kenner's SRU Access Count Rate for a particular SRU does not provide details about the transmission of a requested video clip from the time a data structure is created. The only information that can be gleaned from the SRU Access Rate Counter is whether the video clip is successfully delivered to a requesting DSI by a particular SRU. Before successful delivery, the SRU Access Count Rate does not provide information about the requested video clip. For at least this reason the SRU Access Count Rate (which is for a particular SRU) does not track a requested video clip from the time a data structure is created. Because Kenner does not teach all of the limitations of claim 12, claim 12 and claims dependent thereon are patentable over Kenner.

Independent claim 16 was also rejected under 35 U.S.C. §102(e) as being anticipated by Kenner. Kenner does not anticipate independent claim 16 or claims dependent thereon.

Claim 16 recites track an on-going transmission from a first marker, the tracking in response to providing a handle (to the first marker). Claim 16 also recites at any time after the handle is provided, call a method (other than the method that provided the handle to the first marker) to obtain tracking information relative to the first marker without terminating the tracking from the first marker, the tracking information current as of the time the other method is called.

According to the examiner's application of Kenner, the method that provides a handle to a first marker is taught by creating a data structure containing the SRU Access Rate Counter, and the method that obtains tracking information is taught by using access rate data. Paper No. 01092006, pages 4-5. According to the examiner, the SRU access counter is continually updated. *Id.* As is demonstrated below, Kenner does not anticipate claim 16.

Kenner cannot call a method to use access rate data at an unrestricted or indiscriminate time after a handle is provided. In Kenner, access rate data is only updated after successful download of a video clip.

Namely, as explained above, the SRU Access Count Rate for a particular SRU is incremented after successful delivery of a requested video clip. When the DS1 has successfully collected the data from the *particular* SRU, the "audio-visual access list" on the PIM that manages that DS1 is updated to reflect delivery to that location on the system. Column 14, lines 47-62. Because the access rate data is updated after the successful download of a video clip, access rate data for a particular SRU is not called at any time to obtain tracking information. The SRU Access Rate Counter does not count anything from the time a data structure is created for a particular video request until after the video clip is successfully downloaded from a particular SRU.

Moreover, in Kenner, a DS1 is created whenever a user requests audiovisual information that is not stored on a local SRU. The DS1 is created just before video data download and is *destroyed immediately thereafter*. Column 12, lines 14-18. Because the DS1 is destroyed immediately after video data download, the DS1, hence the data structure, is destroyed. See column 12, lines 14-18. Once destroyed, any alleged tracking with respect to that data structure has been terminated. Thus, Kenner does not teach a method that can be called at any time after a handle is provided to obtain information relative to a first marker without terminating the tracking. The examiner has not established *prima facie* anticipation for claim 16 or claims dependent thereon. Reconsideration is requested.

Under an analysis similar to that of claims 12 and 16, it is submitted that the examiner has not established *prima facie* anticipation for independent claim 26. Additionally, because a data structure is created for a particular user request, a video clip that is the subject of that request is distributed to that user's terminal only. Thus, the transmission indicated in the

particular data structure is only distributed to one terminal. For this additional reason claim 26 and claims dependent thereon are patentable over Kenner.

With respect to claim 27, the examiner asserts that the claims fail to specify what type of transmission is obtaining a first marker, therefore the examiner's interpretation is valid. The transmission of claims 26 and 27 is one that is distributed to a plurality of receivers. The ping program pings a particular computer or destination and is not transmitted to a plurality of receivers. Therefore, the examiner's interpretation is believed to be in error. Moreover, as was explained above, a data structure is created for a particular request; if the request is successful, a video clip is downloaded to only the requesting client—the transmission that the handle points to is distributed to one requesting client device.

With respect to independent claim 36 under analysis similar to that of the prior independent claims, *prima facie* anticipation has also not been established in the Office action.

The examiner is thanked for his detailed and thoughtful analyses. If the examiner cares to discuss the merits of this application, the examiner is invited to call the undersigned to arrange further discussion.

CONCLUSION

In view of the remarks herein, the application is in condition for allowance. The examiner's action in accordance therewith is respectfully requested.

The commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504 (ITL.0083US).

Respectfully submitted,

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